

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Jin Ackerman,
Plaintiff

Case No.: 2:24-cv-00935-JAD-DJA

v.

**Order Acknowledging
Voluntary Dismissal**

Curtis Rigney, et al.,
Defendants

[ECF Nos. 1, 5, 6]

Plaintiff Jin Ackerman filed this civil-rights action under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*.¹ I screened the complaint under 28 U.S.C. § 1915A, found some colorable claims, and granted Ackerman leave to file a first amended complaint (FAC).² Ackerman filed a motion to amend and a proposed FAC.³ But before I screened the FAC, Ackerman filed a motion to voluntarily dismiss “the instant complaint.”⁴

This wording is a bit ambiguous. It could be read as a request either to dismiss the case in its entirety or to dismiss the proposed FAC and proceed on the original complaint. But Ackerman is an experienced litigant in this court, and in two past cases, he expressed a preference to proceed on an original complaint after a first screening by filing a “Motion to Proceed Without Amended Complaint.”⁵ And Ackerman’s motion to voluntarily dismiss does

¹ ECF No. 1

² ECF No. 3.

³ ECF Nos. 5, 5-1.

⁴ ECF No. 6.

⁵ See *Ackerman v. Drummond, et al.*, 3:23-cv-103, ECF No. 6 (D. Nev. May 24, 2023); *Ackerman v. Moskoff, et al.*, 3:22-cv-555, ECF No. 5 (D. Nev. Jan. 20, 2023).

1 not resemble those past motions. So I construe the motion as Ackerman's request to voluntarily
2 dismiss the case in its entirety.

3 Under Rule 41(a)(1) of the Federal Rules of Civil Procedure, "[a] plaintiff may dismiss
4 an action without a court order by filing a notice of dismissal before the opposing party either
5 serves an answer or a motion for summary judgment."⁶ No responsive pleading has been filed in
6 this case, so I acknowledge that this case has been dismissed.


7 IT IS THEREFORE ORDERED that Ackerman's motion to voluntarily dismiss (**ECF**
8 **No. 6**) is **GRANTED**. This case is dismissed in its entirety without prejudice.

9 IT IS FURTHER ORDERED that Ackerman's other pending motions (**ECF Nos. 1, 5**)
10 **are DENIED** as moot.

11 IT IS FURTHER ORDERED that **the Clerk of Court is directed to CLOSE THIS**
12 **CASE.**

13 If Ackerman believes that I have misconstrued his motion to voluntarily dismiss, he may
14 file a motion setting out his reasons for that belief under Federal Rule of Civil Procedure
15 60(b)(1)⁷ "within a reasonable time" not to exceed one year from entry of this order.⁸

16 Dated: February 12, 2025

17 
18 U.S. District Judge
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21 ⁶ Fed. R. Civ. P. 41(a)(1)(A)(i).

22 ⁷ See *Kemp v. United States*, 596 U.S. 528, 533–34 (2022) (explaining that a party may seek
23 relief from a judgment or order under Rule 60(b)(1) based on "mistake, inadvertence, surprise, or
excusable neglect," and that the term "mistake" includes a judge's mistake of law or fact).

⁸ See Fed. R. Civ. P. 60(c).